

Part 201 Brownfields Work Group Meeting Summary

*October 16, 2006
Honigman Miller Schwartz and Cohn LLP
Lansing, Michigan*

Work Group Members Present

Peter Anastor, Richard Barr, Scott Beckerman, Alison Benjamin, John Byl, Anne Couture, John Czarnecki, Susan Erickson, Kevin Johnson, Sara Lile, Bruce Rasher, Darlene VanDale, Jim Tischler, and Grant Trigger

Staff Present

Bill Rustem and Amy Spray, Public Sector Consultants; Mitch Adelman, Mark Conradi, and Ron Smedley, Michigan Department of Environmental Quality

Public Present

Julie Gales, Legislative Service Bureau

Welcome and Introduction

The meeting began at 1:05 PM.

Bill Rustem from Public Sector Consultants welcomed the members of the Part 201 Phase II Discussion Group Brownfields Work Group. Work Group members, DEQ staff, and others in attendance introduced themselves. Rustem thanked Honigman for hosting the meeting and reviewed the agenda. There were no suggested changes.

Other Issues to Be Addressed

Rustem reviewed the Brownfields section of the white paper produced by the 2005 Part 201 Roundtable and asked if there is anything missing in that document that this group would like to address. Suggestions included:

- Reauthorization—The SBT credits and the DEQ's and MEGA's approval of work plans under Act 381 for the capture of school taxes expire on December 31, 2007.
- Increased integration of Part 201 and the Brownfield Redevelopment Financing Act (PA 381 of 1996). Is there a way to optimize the programs? Integration should also include Obsolete Property Rehabilitation Act (OPRA) and other tax abatement programs. This issue is addressed in the "unified application format" section of the 2005 paper.
- New incentives to be created—There may be public financial or other incentives that were used elsewhere that could be applied in Michigan, for example, Greenfield development would not be allowed to proceed without brownfield credits being obtained.
- Consider the burdens on people with deed restrictions that want to get their property designated "generic residential." Should the program encourage this? It may not be

necessary for the public to pay; however, there may be a public benefit. What are the legacy costs for not cleaning up to that high standard?

- Is the primary purpose of this program to clean up contaminated sites or to redevelop them? What are the objectives of the DEQ and MEDC brownfield incentives? PA 381 was structured as a way to redevelop and clean up sites that did not meet Superfund criteria. The cleanup is for a purpose—to get land to a reusable level and make sure it is not recontaminated.
- How should the government agencies that are responsible for issuing the incentives evaluate the economic benefits of redevelopment and cleanup? How do you look at ALL the associated costs and benefits?
- Is this program intended only for urban sites? What about rural and more agricultural sites?

Priority of Issues

1. **Reauthorization.** The consensus of the group was that the brownfield program should be reauthorized, but the reasons must be supported with data (without double counting activities), and some improvements may be needed.
2. **Purpose.** Define whether the purpose of this program is to protect public health or to be an economic development strategy or both.

Discussion of Issues

Purpose

The current purpose of the brownfield program is to facilitate the redevelopment of sites that are contaminated, blighted, or functionally obsolete. The purpose should be to make it easier to develop brownfields compared to greenfields. The performance criteria in the current legislation are:

- the number of jobs created by the proposed project,
- the amount of revenues expected, and
- the number of acres cleaned.

The group questioned whether we could develop scoring criteria for work plans/grants/loans that would help balance the environmental, economic, and return on investment measures as well as include how important a project is to the community. A more transparent model will benefit the agencies and the private sector.

Eligible Activities

There was discussion about expanding the definition of environmental contamination to include asbestos and lead contamination, and deposition. This expanded definition is available for “core cities.” The group also discussed expanding the availability of tax increment financing (TIF) to non-core cities, but some wondered whether this would dilute the other tools available or possibly allow cash-strapped cities to TIF themselves into a deficit. The group agreed that the list of criteria defining core cities was not a good one, but did not think that it was politically feasible to change that at this time.

PA 381 and Part 201

Brownfields are just a part of Part 201. Part 201 was created to deal with cleanup and liability issues, and Part 201 must be satisfied before the tools PA 381 provides may be used. The group questioned how many brownfield evaluations are project driven (a developer is already interested) compared with property/site driven (contaminated land exists). MEDC's brownfield interests are in only the project-driven redevelopments, while the PA 381 program is more property driven.

It was suggested that developers should engage the DEQ early in the process of developing PA 381 work plans. The most difficult part of the process for communities can be site characterization. Many communities do not have the resources to perform adequate site characterization; however, site assessment funding is available to local units of government through a federal grant and loan program or they can use local tax revenue. Work group members discussed the possibility of a developer gaining conceptual approval for a plan, which would allow financing to be approved. The developer, however, would have the burden of complying with the requirements of a completed work plan. The final work plan would still be subject to expense eligibility criteria.

Next Steps

Follow-up on issues and ideas from this meeting:

- Susan Erickson will draft the internal process/criteria the DEQ considers in approving brownfield grants and loans, including what she would like to see in a new/revised program.
- John Czarnecki will convene a multi-agency group to discuss what the state can do to accelerate/streamline the program. This group should include at least MEDC, Treasury, MDOT, HAL, MSHDA, and DEQ.
- Anne Couture will outline what should occur and what should be prepared for a pre-work plan or scoping meeting with the state.
- Grant Trigger and Jim Tischler will draft a "straw man" proposal showing how a developer could gain conceptual approval for a plan from the state that would allow financing to be approved. After gaining conceptual approval, the developer would still have the burden of complying with the requirements of expense eligibility criteria to receive the final total state TIF funding amount.
- PSC will draft two versions of a "purpose" statement to facilitate further discussion.
- PSC staff will convene to determine what is being discussed in other work groups and report back to the Brownfield Work Group.

Next Meeting

The next meeting is scheduled for November 9, 2006, from 9:00 AM to 12:00 PM and will be held at the Michigan Department of Environmental Quality (Constitution Hall) in Lansing, Michigan. Logistics and directions will be provided via e-mail prior to the meeting date.